

111TH CONGRESS
1ST SESSION

S. 1157

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2009

Mr. CONRAD (for himself, Mr. ROBERTS, Mr. HARKIN, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Craig Thomas Rural Hospital and Provider Equity Act
6 of 2009”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Fairness in the Medicare disproportionate share hospital (DSH) adjustment for rural hospitals.
- Sec. 3. Revision of the Medicare hold harmless provision under the prospective payment system for hospital outpatient department (HOPD) services.
- Sec. 4. Improvement of definition of low-volume hospital for purposes of the Medicare inpatient hospital payment adjustment and temporary improvements to the Medicare inpatient hospital payment adjustment for low-volume hospitals.
- Sec. 5. Extension of Medicare wage index reclassifications for certain hospitals.
- Sec. 6. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Sec. 7. Elimination of isolation test for cost-based ambulance reimbursement for critical access hospitals.
- Sec. 8. Capital infrastructure revolving loan program.
- Sec. 9. Extension of Medicare incentive payment program for physician scarcity areas.
- Sec. 10. Extension of floor on Medicare work geographic adjustment.
- Sec. 11. Permitting physician assistants to order post-hospital extended care services; permitting physician assistants when delegated by a physician to order hospice care; improving care planning for Medicare home health services.
- Sec. 12. Rural health clinic improvements.
- Sec. 13. Community health center collaborative access expansion.
- Sec. 14. Application of the temporary Medicare payment increase for home health services furnished in a rural area to 2010.
- Sec. 15. Extension of increased Medicare payments for rural ground ambulance services.
- Sec. 16. Coverage of marriage and family therapist services and mental health counselor services under Part B of the Medicare program.
- Sec. 17. Extension of treatment of certain physician pathology services under Medicare.
- Sec. 18. Medicare remote monitoring pilot projects.
- Sec. 19. Facilitating the provision of telehealth services across State lines.
- Sec. 20. Medicare Part A payment for anesthesiologist services in certain rural hospitals based on CRNA pass-through rules.
- Sec. 21. Temporary floor on the practice expense geographic index for services furnished in rural areas under the Medicare physician fee schedule.
- Sec. 22. Temporary floor on Medicare hospital area wage index for certain hospitals.
- Sec. 23. Revisions to standard for designation of sole community hospitals.

1 SEC. 2. FAIRNESS IN THE MEDICARE DISPROPORTIONATE
2 SHARE HOSPITAL (DSH) ADJUSTMENT FOR
3 RURAL HOSPITALS.

4 Section 1886(d)(5)(F)(xiv)(II) of the Social Security
5 Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended—

1 (1) by striking “or, in the case” and all that
 2 follows through “subparagraph (G)(iv)”; and

3 (2) by inserting at the end the following new
 4 sentence: “The preceding sentence shall not apply to
 5 any hospital with respect to discharges occurring on
 6 or after October 1, 2010.”.

7 **SEC. 3. REVISION OF THE MEDICARE HOLD HARMLESS**
 8 **PROVISION UNDER THE PROSPECTIVE PAY-**
 9 **MENT SYSTEM FOR HOSPITAL OUTPATIENT**
 10 **DEPARTMENT (HOPD) SERVICES.**

11 Section 1833(t)(7)(D)(i) of the Social Security Act
 12 (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

13 (1) in subclause (II)—

14 (A) by striking “2010” and inserting
 15 “2011”;

16 (B) by striking “and 85” and inserting
 17 “85”; and

18 (C) in the second sentence, by inserting “,
 19 and 100 percent with respect to such services
 20 furnished in 2010” before the period at the
 21 end; and

22 (2) in subclause (III)—

23 (A) by striking “2010” and inserting
 24 “2011”;

1 (B) by striking “85 percent” and inserting
 2 “the applicable percentage”; and

3 (C) by adding at the end the following new
 4 sentence: “For purposes of the preceding sen-
 5 tence, the applicable percentage shall be 85 per-
 6 cent with respect to covered OPD services fur-
 7 nished in 2009 and 100 percent for such serv-
 8 ices furnished in 2010.”

9 **SEC. 4. IMPROVEMENT OF DEFINITION OF LOW-VOLUME**
 10 **HOSPITAL FOR PURPOSES OF THE MEDICARE**
 11 **INPATIENT HOSPITAL PAYMENT ADJUST-**
 12 **MENT AND TEMPORARY IMPROVEMENTS TO**
 13 **THE MEDICARE INPATIENT HOSPITAL PAY-**
 14 **MENT ADJUSTMENT FOR LOW-VOLUME HOS-**
 15 **PITALS.**

16 (a) IMPROVEMENT OF DEFINITION OF LOW-VOLUME
 17 HOSPITAL FOR PURPOSES OF THE MEDICARE INPATIENT
 18 HOSPITAL PAYMENT ADJUSTMENT.—Section
 19 1886(d)(12)(C)(i) of the Social Security Act (42 U.S.C.
 20 1395ww(d)(12)(C)(i)) is amended by inserting “(or, be-
 21 ginning with fiscal year 2010, 2,000 discharges)” after
 22 “800 discharges”.

23 (b) TEMPORARY IMPROVEMENTS TO THE MEDICARE
 24 INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-
 25 VOLUME HOSPITALS.—Section 1886(d)(12) of the Social

1 Security Act (42 U.S.C. 1395ww(d)(12)), as amended by
2 subsection (a), is amended—

3 (1) in subparagraph (A), by inserting “or (D)”
4 after “subparagraph (B)”;

5 (2) in subparagraph (B), by striking “The Sec-
6 retary” and inserting “For discharges occurring in
7 fiscal years 2005 through 2009 and for discharges
8 occurring in fiscal year 2012 and subsequent fiscal
9 years, the Secretary”;

10 (3) in subparagraph (C)(i), by inserting “(or,
11 with respect to fiscal years 2010 and 2011, 15 road
12 miles)” after “25 road miles”; and

13 (4) by adding at the end the following new sub-
14 paragraph:

15 “(D) TEMPORARY APPLICABLE PERCENT-
16 AGE INCREASE.—For discharges occurring in
17 fiscal years 2010 or 2011, the Secretary shall
18 determine an applicable percentage increase for
19 purposes of subparagraph (A) using a linear
20 sliding scale ranging from 25 percent for low-
21 volume hospitals with fewer than an appro-
22 priate number (as determined by the Secretary)
23 of discharges of individuals entitled to, or en-
24 rolled for, benefits under part A in the fiscal
25 year to 0 percent for low-volume hospitals with

1 greater than 2,000 discharges of such individ-
 2 uals in the fiscal year.”.

3 **SEC. 5. EXTENSION OF MEDICARE WAGE INDEX RECLASSI-**
 4 **FICATIONS FOR CERTAIN HOSPITALS.**

5 (a) EXTENSION OF CORRECTION OF MID-YEAR RE-
 6 CLASSIFICATION EXPIRATION FOR CERTAIN HOS-
 7 PITALS.—

8 (1) IN GENERAL.—In the case of a hospital de-
 9 scribed in paragraph (2), effective September 30,
 10 2009, the Secretary of Health and Human Services
 11 shall apply subsection (a) of section 106 of division
 12 B of the Tax Relief and Health Care Act of 2006
 13 (42 U.S.C. 1395ww note), as amended by section
 14 124(a) of the Medicare Improvements for Patients
 15 and Providers Act of 2008 (Public Law 110–275) by
 16 substituting “September 30, 2010” for “September
 17 30, 2009”.

18 (2) HOSPITAL DESCRIBED.—A hospital de-
 19 scribed in this paragraph is a hospital—

20 (A) that is described in subsection (a) of
 21 such section 106; and

22 (B)(i) that is located in a rural area; and
 23 (ii) for which the Secretary of Health and
 24 Human Services has determined the extension
 25 under this subsection to be appropriate.

(b) ADDITIONAL EXTENSION.—The Secretary of Health and Human Services shall extend the special exception reclassification of a sole community hospital located in a State with less than 10 people per square mile (made under the authority of section 1886(d)(5)(I)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(I)(i)) and contained in the final rule promulgated by the Secretary in the Federal Register on August 11, 2004 (69 Fed. Reg. 49107)) under section 117(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), through September 30, 2010.

(c) NOT BUDGET NEUTRAL.—The provisions of this section shall not be effected in a budget-neutral manner.

SEC. 6. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4(b)), as amended by section 107 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by inserting “, or, beginning during

1 the period beginning on July 1, 2010, and ending on June
2 30, 2011” after “2008”.

3 **SEC. 7. ELIMINATION OF ISOLATION TEST FOR COST-BASED**
4 **AMBULANCE REIMBURSEMENT FOR CRIT-**
5 **ICAL ACCESS HOSPITALS.**

6 (a) IN GENERAL.—Section 1834(l)(8) of the Social
7 Security Act (42 U.S.C. 1395m(l)(8)) is amended—

8 (1) in subparagraph (B)—

9 (A) by striking “owned and”; and

10 (B) by inserting “(including when such
11 services are provided by the entity under an ar-
12 rangement with the hospital)” after “hospital”;
13 and

14 (2) by striking the comma at the end of sub-
15 paragraph (B) and all that follows and inserting a
16 period.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to services furnished on or after
19 January 1, 2010.

20 **SEC. 8. CAPITAL INFRASTRUCTURE REVOLVING LOAN PRO-**
21 **GRAM.**

22 (a) IN GENERAL.—Part A of title XVI of the Public
23 Health Service Act (42 U.S.C. 300q et seq.) is amended
24 by adding at the end the following new section:

1 “CAPITAL INFRASTRUCTURE REVOLVING LOAN PROGRAM

2 “SEC. 1603. (a) AUTHORITY TO MAKE AND GUAR-
3 ANTEE LOANS.—

4 “(1) AUTHORITY TO MAKE LOANS.—The Sec-
5 retary may make loans from the fund established
6 under section 1602(d) to any rural entity for
7 projects for capital improvements, including—

8 “(A) the acquisition of land necessary for
9 the capital improvements;

10 “(B) the renovation or modernization of
11 any building;

12 “(C) the acquisition or repair of fixed or
13 major movable equipment; and

14 “(D) such other project expenses as the
15 Secretary determines appropriate.

16 “(2) AUTHORITY TO GUARANTEE LOANS.—

17 “(A) IN GENERAL.—The Secretary may
18 guarantee the payment of principal and interest
19 for loans made to rural entities for projects for
20 any capital improvement described in paragraph
21 (1) to any non-Federal lender.

22 “(B) INTEREST SUBSIDIES.—In the case
23 of a guarantee of any loan made to a rural enti-
24 ty under subparagraph (A), the Secretary may
25 pay to the holder of such loan, for and on be-

1 half of the project for which the loan was made,
2 amounts sufficient to reduce (by not more than
3 3 percent) the net effective interest rate other-
4 wise payable on such loan.

5 “(b) AMOUNT OF LOAN.—The principal amount of
6 a loan directly made or guaranteed under subsection (a)
7 for a project for capital improvement may not exceed
8 \$5,000,000.

9 “(c) FUNDING LIMITATIONS.—

10 “(1) GOVERNMENT CREDIT SUBSIDY EXPO-
11 SURE.—The total of the Government credit subsidy
12 exposure under the Credit Reform Act of 1990 scor-
13 ing protocol with respect to the loans outstanding at
14 any time with respect to which guarantees have been
15 issued, or which have been directly made, under sub-
16 section (a) may not exceed \$50,000,000 per year.

17 “(2) TOTAL AMOUNTS.—Subject to paragraph
18 (1), the total of the principal amount of all loans di-
19 rectly made or guaranteed under subsection (a) may
20 not exceed \$250,000,000 per year.

21 “(d) CAPITAL ASSESSMENT AND PLANNING
22 GRANTS.—

23 “(1) NONREPAYABLE GRANTS.—Subject to
24 paragraph (2), the Secretary may make a grant to
25 a rural entity, in an amount not to exceed \$50,000,

1 for purposes of capital assessment and business
2 planning.

3 “(2) LIMITATION.—The cumulative total of
4 grants awarded under this subsection may not ex-
5 ceed \$2,500,000 per year.

6 “(e) TERMINATION OF AUTHORITY.—The Secretary
7 may not directly make or guarantee any loan under sub-
8 section (a) or make a grant under subsection (d) after
9 September 30, 2013.”.

10 (b) RURAL ENTITY DEFINED.—Section 1624 of the
11 Public Health Service Act (42 U.S.C. 300s–3) is amended
12 by adding at the end the following new paragraph:

13 “(15)(A) The term ‘rural entity’ includes—

14 “(i) a rural health clinic, as defined in sec-
15 tion 1861(aa)(2) of the Social Security Act;

16 “(ii) any medical facility with at least 1
17 bed, but with less than 50 beds, that is located
18 in—

19 “(I) a county that is not part of a
20 metropolitan statistical area; or

21 “(II) a rural census tract of a metro-
22 politan statistical area (as determined
23 under the most recent modification of the
24 Goldsmith Modification, originally pub-

1 lished in the Federal Register on February
2 27, 1992 (57 Fed. Reg. 6725));

3 “(iii) a hospital that is classified as a
4 rural, regional, or national referral center under
5 section 1886(d)(5)(C) of the Social Security
6 Act; and

7 “(iv) a hospital that is a sole community
8 hospital (as defined in section
9 1886(d)(5)(D)(iii) of the Social Security Act).

10 “(B) For purposes of subparagraph (A), the
11 fact that a clinic, facility, or hospital has been geo-
12 graphically reclassified under the Medicare program
13 under title XVIII of the Social Security Act shall not
14 preclude a hospital from being considered a rural en-
15 tity under clause (i) or (ii) of subparagraph (A).”.

16 (c) CONFORMING AMENDMENTS.—Section 1602 of
17 the Public Health Service Act (42 U.S.C. 300q–2) is
18 amended—

19 (1) in subsection (b)(2)(D), by inserting “or
20 1603(a)(2)(B)” after “1601(a)(2)(B)”; and

21 (2) in subsection (d)—

22 (A) in paragraph (1)(C), by striking “sec-
23 tion 1601(a)(2)(B)” and inserting “sections
24 1601(a)(2)(B) and 1603(a)(2)(B)”; and

1 (B) in paragraph (2)(A), by inserting “or
 2 1603(a)(2)(B)” after “1601(a)(2)(B)”.

3 **SEC. 9. EXTENSION OF MEDICARE INCENTIVE PAYMENT**
 4 **PROGRAM FOR PHYSICIAN SCARCITY AREAS.**

5 Section 1833(u)(1) of the Social Security Act (42
 6 U.S.C. 1395l(u)(1)) is amended by inserting “, and such
 7 services furnished on or after January 1, 2010, and before
 8 July 1, 2011” after “2008”.

9 **SEC. 10. EXTENSION OF FLOOR ON MEDICARE WORK GEO-**
 10 **GRAPHIC ADJUSTMENT.**

11 Section 1848(e)(1)(E) of the Social Security Act (42
 12 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before
 13 January 1, 2010” and inserting “before January 1,
 14 2011”.

15 **SEC. 11. PERMITTING PHYSICIAN ASSISTANTS TO ORDER**
 16 **POST-HOSPITAL EXTENDED CARE SERVICES;**
 17 **PERMITTING PHYSICIAN ASSISTANTS WHEN**
 18 **DELEGATED BY A PHYSICIAN TO ORDER HOS-**
 19 **PICE CARE; IMPROVING CARE PLANNING FOR**
 20 **MEDICARE HOME HEALTH SERVICES.**

21 (a) PERMITTING PHYSICIAN ASSISTANTS TO ORDER
 22 POST-HOSPITAL EXTENDED CARE SERVICES AND TO
 23 PROVIDE FOR RECOGNITION OF ATTENDING PHYSICIAN
 24 ASSISTANTS AS ATTENDING PHYSICIANS TO SERVE HOS-
 25 PICE PATIENTS.—

(1) ORDERING POST-HOSPITAL EXTENDED
CARE SERVICES.—

(A) IN GENERAL.—Section 1814(a)(2) of the Social Security Act (42 U.S.C. 1395f(a)(2)), in the matter preceding subparagraph (A), is amended by striking “nurse practitioner or clinical nurse specialist” and inserting “nurse practitioner, a clinical nurse specialist, or a physician assistant (as those terms are defined in section 1861(aa)(5))”.

(B) CONFORMING AMENDMENT.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended, in the second sentence, by striking “or clinical nurse specialist” and inserting “clinical nurse specialist, or physician assistant”.

(2) RECOGNITION OF ATTENDING PHYSICIAN ASSISTANTS AS ATTENDING PHYSICIANS TO SERVE HOSPICE PATIENTS.—

(A) IN GENERAL.—Section 1861(dd)(3)(B) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(B)) is amended—

(i) by striking “or nurse” and inserting “, the nurse”; and

1 (ii) by inserting “, or the physician
 2 assistant (as defined in such subsection)”
 3 after “subsection (aa)(5))”.

4 (B) PERMITTING PHYSICIAN ASSISTANTS
 5 WHEN DELEGATED BY A PHYSICIAN TO ORDER
 6 HOSPICE CARE.—Section 1814(a)(7)(A) of such
 7 Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

8 (i) in clause (i)(I), by inserting “or a
 9 physician assistant as delegated by such
 10 attending physician” after “nurse practi-
 11 tioner)”; and

12 (ii) in clause (ii), by inserting “or
 13 physician assistant” after “physician”.

14 (b) IMPROVING CARE PLANNING FOR MEDICARE
 15 HOME HEALTH SERVICES.—

16 (1) IN GENERAL.—Section 1814(a)(2) of the
 17 Social Security Act (42 U.S.C. 1395f(a)(2)), in the
 18 matter preceding subparagraph (A), is amended by
 19 inserting “, or in the case of services described in
 20 subparagraph (C), a physician, or a nurse practi-
 21 tioner or clinical nurse specialist who is working in
 22 collaboration with a physician in accordance with
 23 State law, or a certified nurse-midwife (as defined in
 24 section 1861(gg)) as authorized by State law, or a
 25 physician assistant (as defined in section

1 1861(aa)(5)) under the supervision of a physician”
 2 after “collaboration with a physician”.

3 (2) CONFORMING AMENDMENTS.—(A) Section
 4 1814(a) of the Social Security Act (42 U.S.C.
 5 1395f(a)), as amended by subsection (a), is amend-
 6 ed—

7 (i) in paragraph (2)(C), by inserting “, a
 8 nurse practitioner, a clinical nurse specialist, a
 9 certified nurse-midwife, or a physician assistant
 10 (as the case may be)” after “physician” each
 11 place it appears;

12 (ii) in the second sentence, by striking
 13 “clinical nurse specialist, or physician assist-
 14 ant” and inserting “clinical nurse specialist,
 15 certified nurse-midwife, or physician assistant”;

16 (iii) in the third sentence—

17 (I) by striking “physician certifi-
 18 cation” and inserting “certification”;

19 (II) by inserting “(or on January 1,
 20 2010, in the case of regulations to imple-
 21 ment the amendments made by section 11
 22 of the Craig Thomas Rural Hospital and
 23 Provider Equity Act of 2009)” after
 24 “1981”; and

1 (III) by striking “a physician who”
2 and inserting “a physician, nurse practi-
3 tioner, clinical nurse specialist, certified
4 nurse-midwife, or physician assistant
5 who”; and

6 (iv) in the fourth sentence, by inserting “,
7 nurse practitioner, clinical nurse specialist, cer-
8 tified nurse-midwife, or physician assistant”
9 after “physician”.

10 (B) Section 1835(a) of the Social Security Act
11 (42 U.S.C. 1395n(a)) is amended—

12 (i) in paragraph (2)—

13 (I) in the matter preceding subpara-
14 graph (A), by inserting “or, in the case of
15 services described in subparagraph (A), a
16 physician, or a nurse practitioner or clin-
17 ical nurse specialist (as those terms are de-
18 fined in 1861(aa)(5)) who is working in
19 collaboration with a physician in accord-
20 ance with State law, or a certified nurse-
21 midwife (as defined in section 1861(gg)) as
22 authorized by State law, or a physician as-
23 sistant (as defined in section 1861(aa)(5))
24 under the supervision of a physician” after
25 “a physician”; and

1 (II) in each of clauses (ii) and (iii) of
 2 subparagraph (A) by inserting “, a nurse
 3 practitioner, a clinical nurse specialist, a
 4 certified nurse-midwife, or a physician as-
 5 sistant (as the case may be)” after “physi-
 6 cian”;

7 (ii) in the third sentence, by inserting “,
 8 nurse practitioner, clinical nurse specialist, cer-
 9 tified nurse-midwife, or physician assistant (as
 10 the case may be)” after physician;

11 (iii) in the fourth sentence—

12 (I) by striking “physician certifi-
 13 cation” and inserting “certification”;

14 (II) by inserting “(or on January 1,
 15 2010, in the case of regulations to imple-
 16 ment the amendments made by section 11
 17 of the Craig Thomas Rural Hospital and
 18 Provider Equity Act of 2009)” after
 19 “1981”; and

20 (III) by striking “a physician who”
 21 and inserting “a physician, nurse practi-
 22 tioner, clinical nurse specialist, certified
 23 nurse-midwife, or physician assistant
 24 who”; and

1 (iv) in the fifth sentence, by inserting “,
 2 nurse practitioner, clinical nurse specialist, cer-
 3 tified nurse-midwife, or physician assistant”
 4 after “physician”.

5 (C) Section 1861 of the Social Security Act (42
 6 U.S.C. 1395x) is amended—

7 (i) in subsection (m)—

8 (I) in the matter preceding paragraph
 9 (1)—

10 (aa) by inserting “a nurse practi-
 11 tioner or a clinical nurse specialist (as
 12 those terms are defined in subsection
 13 (aa)(5)), a certified nurse-midwife (as
 14 defined in section 1861(gg)), or a
 15 physician assistant (as defined in sub-
 16 section (aa)(5))” after “physician”
 17 the first place it appears; and

18 (bb) by inserting “a nurse practi-
 19 tioner, a clinical nurse specialist, a
 20 certified nurse-midwife, or a physician
 21 assistant” after “physician” the sec-
 22 ond place it appears; and

23 (II) in paragraph (3), by inserting “a
 24 nurse practitioner, a clinical nurse spe-

1 cialist, a certified nurse-midwife, or a phy-
 2 sician assistant” after “physician”; and

3 (ii) in subsection (o)(2)—

4 (I) by inserting “, nurse practitioners
 5 or clinical nurse specialists (as those terms
 6 are defined in subsection (aa)(5)), certified
 7 nurse-midwives (as defined in section
 8 1861(gg)), or physician assistants (as de-
 9 fined in subsection (aa)(5))” after “physi-
 10 cians”; and

11 (II) by inserting “, nurse practitioner,
 12 clinical nurse specialist, certified nurse-
 13 midwife, physician assistant,” after “physi-
 14 cian”.

15 (D) Section 1895 of the Social Security Act (42
 16 U.S.C. 1395fff) is amended—

17 (i) in subsection (c)(1), by inserting “, the
 18 nurse practitioner or clinical nurse specialist (as
 19 those terms are defined in section 1861(aa)(5)),
 20 the certified nurse-midwife (as defined in sec-
 21 tion 1861(gg)), or the physician assistant (as
 22 defined in section 1861(aa)(5)),” after “physi-
 23 cian”; and

24 (ii) in subsection (e)—

1 (I) in paragraph (1)(A), by inserting
 2 “, a nurse practitioner or clinical nurse
 3 specialist (as those terms are defined in
 4 section 1861(aa)(5)), a certified nurse-mid-
 5 wife (as defined in section 1861(gg)), or a
 6 physician assistant (as defined in section
 7 1861(aa)(5))” after “physician”; and

8 (II) in paragraph (2)—

9 (aa) in the heading, by striking
 10 “PHYSICIAN CERTIFICATION” and in-
 11 serting “RULE OF CONSTRUCTION RE-
 12 GARDING REQUIREMENT FOR CERTIFI-
 13 CATION”; and

14 (bb) by striking “physician”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to items and services furnished on
 17 or after January 1, 2010.

18 **SEC. 12. RURAL HEALTH CLINIC IMPROVEMENTS.**

19 Section 1833(f) of the Social Security Act (42 U.S.C.
 20 1395l(f)) is amended—

21 (1) in paragraph (1), by striking “, and” at the
 22 end and inserting a semicolon;

23 (2) in paragraph (2)—

24 (A) by inserting “(before 2010)” after “in
 25 a subsequent year”; and

1 (B) by striking the period at the end and
 2 inserting a semicolon; and

3 (3) by adding at the end the following new
 4 paragraphs:

5 “(3) in 2010, at \$92 per visit; and

6 “(4) in a subsequent year, at the limit estab-
 7 lished under this subsection for the previous year in-
 8 creased by the percentage increase in the MEI (as
 9 so defined) applicable to primary care services (as so
 10 defined) furnished as of the first day of that year.”.

11 **SEC. 13. COMMUNITY HEALTH CENTER COLLABORATIVE**
 12 **ACCESS EXPANSION.**

13 Section 330 of the Public Health Service Act (42
 14 U.S.C. 254b) is amended by adding at the end the fol-
 15 lowing:

16 “(s) MISCELLANEOUS PROVISIONS.—

17 “(1) RULE OF CONSTRUCTION WITH RESPECT
 18 TO RURAL HEALTH CLINICS.—

19 “(A) IN GENERAL.—Nothing in this sec-
 20 tion shall be construed to prevent a community
 21 health center from contracting with a federally
 22 certified rural health clinic (as defined by sec-
 23 tion 1861(aa)(2) of the Social Security Act) for
 24 the delivery of primary health care services that
 25 are available at the rural health clinic to indi-

viduals who would otherwise be eligible for free or reduced cost care if that individual were able to obtain that care at the community health center. Such services may be limited in scope to those primary health care services available in that rural health clinic.

“(B) ASSURANCES.—In order for a rural health clinic to receive funds under this section through a contract with a community health center under paragraph (1), such rural health clinic shall establish policies to ensure—

“(i) nondiscrimination based upon the ability of a patient to pay; and

“(ii) the establishment of a sliding fee scale for low-income patients.”.

**SEC. 14. APPLICATION OF THE TEMPORARY MEDICARE
PAYMENT INCREASE FOR HOME HEALTH
SERVICES FURNISHED IN A RURAL AREA TO
2010.**

Section 421 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395fff note), as amended by section 5201(b) of the Deficit Reduction Act of 2005 (42 U.S.C. 1395fff note), is amended—

1 (1) in the section heading, by striking “**ONE-**
2 **YEAR**” and inserting “**TEMPORARY**”; and

3 (2) in subsection (a), by inserting “and episodes
4 and visits ending on or after January 1, 2010, and
5 before January 1, 2011,” after “January 1, 2007,”.

6 **SEC. 15. EXTENSION OF INCREASED MEDICARE PAYMENTS**
7 **FOR RURAL GROUND AMBULANCE SERVICES.**

8 Section 1834(l)(13) of the Social Security Act (42
9 U.S.C. 1395m(l)(13)) is amended—

10 (1) in subparagraph (A), in the heading, by
11 striking “IN GENERAL” and inserting “FOR THE
12 SECOND HALF OF 2004 AND FOR 2005, 2006, THE
13 SECOND HALF OF 2008, AND 2009”;

14 (2) by redesignating subparagraph (B) as sub-
15 paragraph (C);

16 (3) by inserting the following after subpara-
17 graph (A):

18 “(B) FOR 2010 AND 2011 FOR RURAL
19 AREAS.—After computing the rates with respect
20 to ground ambulance services under the other
21 applicable provisions of this subsection, in the
22 case of such services furnished on or after Jan-
23 uary 1, 2010, and before January 1, 2012, for
24 which the transportation originates in a rural
25 area described in paragraph (9) or in a rural

1 census tract described in such paragraph, the
 2 fee schedule established under this section shall
 3 provide that the rate for the service otherwise
 4 established, after application of any increase
 5 under paragraphs (11) and (12), shall be in-
 6 creased by 5 percent.”; and

7 (4) in subparagraph (C), as redesignated by
 8 paragraph (2)—

9 (A) in the heading, by striking “APPLICA-
 10 TION OF INCREASED PAYMENTS AFTER APPLI-
 11 CABLE PERIOD” and inserting “NO EFFECT ON
 12 SUBSEQUENT PERIODS”; and

13 (B) by adding at the end the following new
 14 sentence: “The increased payments under sub-
 15 paragraph (B) shall not be taken into account
 16 in calculating payments for services furnished
 17 after the period specified in such subpara-
 18 graph.”.

19 **SEC. 16. COVERAGE OF MARRIAGE AND FAMILY THERAPIST**
 20 **SERVICES AND MENTAL HEALTH COUNSELOR**
 21 **SERVICES UNDER PART B OF THE MEDICARE**
 22 **PROGRAM.**

23 (a) COVERAGE OF SERVICES.—

1 (1) IN GENERAL.—Section 1861(s)(2) of the
 2 Social Security Act (42 U.S.C. 1395x(s)(2)) is
 3 amended—

4 (A) in subparagraph (DD), by striking
 5 “and” after the semicolon at the end;

6 (B) in subparagraph (EE), by inserting
 7 “and” after the semicolon at the end; and

8 (C) by adding at the end the following new
 9 subparagraph:

10 “(FF) marriage and family therapist services
 11 (as defined in subsection (hhh)(1)) and mental
 12 health counselor services (as defined in subsection
 13 (hhh)(3));”.

14 (2) DEFINITIONS.—Section 1861 of the Social
 15 Security Act (42 U.S.C. 1395x) is amended by add-
 16 ing at the end the following new subsection:

17 “Marriage and Family Therapist Services; Marriage and
 18 Family Therapist; Mental Health Counselor Serv-
 19 ices; Mental Health Counselor

20 “(hhh)(1) The term ‘marriage and family therapist
 21 services’ means services performed by a marriage and
 22 family therapist (as defined in paragraph (2)) for the diag-
 23 nosis and treatment of mental illnesses, which the mar-
 24 riage and family therapist is legally authorized to perform
 25 under State law (or the State regulatory mechanism pro-

1 vided by State law) of the State in which such services
2 are performed, as would otherwise be covered if furnished
3 by a physician or as an incident to a physician's profes-
4 sional service, but only if no facility or other provider
5 charges or is paid any amounts with respect to the fur-
6 nishing of such services.

7 “(2) The term ‘marriage and family therapist’ means
8 an individual who—

9 “(A) possesses a master's or doctoral degree
10 which qualifies for licensure or certification as a
11 marriage and family therapist pursuant to State
12 law;

13 “(B) after obtaining such degree has performed
14 at least 2 years of clinical supervised experience in
15 marriage and family therapy; and

16 “(C) in the case of an individual performing
17 services in a State that provides for licensure or cer-
18 tification of marriage and family therapists, is li-
19 censed or certified as a marriage and family thera-
20 pist in such State.

21 “(3) The term ‘mental health counselor services’
22 means services performed by a mental health counselor (as
23 defined in paragraph (4)) for the diagnosis and treatment
24 of mental illnesses which the mental health counselor is
25 legally authorized to perform under State law (or the

1 State regulatory mechanism provided by the State law) of
 2 the State in which such services are performed, as would
 3 otherwise be covered if furnished by a physician or as inci-
 4 dent to a physician's professional service, but only if no
 5 facility or other provider charges or is paid any amounts
 6 with respect to the furnishing of such services.

7 “(4) The term ‘mental health counselor’ means an
 8 individual who—

9 “(A) possesses a master's or doctor's degree in
 10 mental health counseling or a related field;

11 “(B) after obtaining such a degree has per-
 12 formed at least 2 years of supervised mental health
 13 counselor practice; and

14 “(C) in the case of an individual performing
 15 services in a State that provides for licensure or cer-
 16 tification of mental health counselors or professional
 17 counselors, is licensed or certified as a mental health
 18 counselor or professional counselor in such State.”.

19 (3) PROVISION FOR PAYMENT UNDER PART
 20 B.—Section 1832(a)(2)(B) of the Social Security
 21 Act (42 U.S.C. 1395k(a)(2)(B)) is amended by add-
 22 ing at the end the following new clause:

23 “(v) marriage and family therapist
 24 services (as defined in section
 25 1861(hhh)(1)) and mental health counselor

1 services (as defined in section
2 1861(hhh)(3));”.

3 (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)
4 of the Social Security Act (42 U.S.C. 1395l(a)(1))
5 is amended—

6 (A) by striking “and (W)” and inserting
7 “(W)”; and

8 (B) by inserting before the semicolon at
9 the end the following: “, and (X) with respect
10 to marriage and family therapist services and
11 mental health counselor services under section
12 1861(s)(2)(BB), the amounts paid shall be 80
13 percent of the lesser of the actual charge for
14 the services or 75 percent of the amount deter-
15 mined for payment of a psychologist under sub-
16 paragraph (L)”.

17 (5) EXCLUSION OF MARRIAGE AND FAMILY
18 THERAPIST SERVICES AND MENTAL HEALTH COUN-
19 SELOR SERVICES FROM SKILLED NURSING FACILITY
20 PROSPECTIVE PAYMENT SYSTEM.—Section
21 1888(e)(2)(A)(ii) of the Social Security Act (42
22 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting
23 “marriage and family therapist services (as defined
24 in section 1861(hhh)(1)), mental health counselor

1 services (as defined in section 1861(hhh)(3)),” after
 2 “qualified psychologist services,”.

3 (6) INCLUSION OF MARRIAGE AND FAMILY
 4 THERAPISTS AND MENTAL HEALTH COUNSELORS AS
 5 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-
 6 tion 1842(b)(18)(C) of the Social Security Act (42
 7 U.S.C. 1395u(b)(18)(C)) is amended by adding at
 8 the end the following new clauses:

9 “(vii) A marriage and family therapist (as de-
 10 fined in section 1861(hhh)(2)).

11 “(viii) A mental health counselor (as defined in
 12 section 1861(hhh)(4)).”.

13 (b) COVERAGE OF CERTAIN MENTAL HEALTH SERV-
 14 ICES PROVIDED IN CERTAIN SETTINGS.—

15 (1) RURAL HEALTH CLINICS AND FEDERALLY
 16 QUALIFIED HEALTH CENTERS.—Section
 17 1861(aa)(1)(B) of the Social Security Act (42
 18 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or
 19 by a clinical social worker (as defined in subsection
 20 (hh)(1))” and inserting “, by a clinical social worker
 21 (as defined in subsection (hh)(1)), by a marriage
 22 and family therapist (as defined in subsection
 23 (hhh)(2)), or by a mental health counselor (as de-
 24 fined in subsection (hhh)(4))”.

1 (2) HOSPICE PROGRAMS.—Section
 2 1861(dd)(2)(B)(i)(III) of the Social Security Act (42
 3 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by in-
 4 serting “, marriage and family therapist, or mental
 5 health counselor” after “social worker”.

6 (c) AUTHORIZATION OF MARRIAGE AND FAMILY
 7 THERAPISTS AND MENTAL HEALTH COUNSELORS TO
 8 DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERV-
 9 ICES.—Section 1861(ee)(2)(G) of the Social Security Act
 10 (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting “,
 11 including a marriage and family therapist and a mental
 12 health counselor who meets qualification standards estab-
 13 lished by the Secretary” before the period at the end.

14 (d) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply with respect to services furnished
 16 on or after January 1, 2010.

17 **SEC. 17. EXTENSION OF TREATMENT OF CERTAIN PHYSI-**
 18 **CIAN PATHOLOGY SERVICES UNDER MEDI-**
 19 **CARE.**

20 Section 542(c) of the Medicare, Medicaid, and
 21 SCHIP Benefits Improvement and Protection Act of 2000
 22 (as enacted into law by section 1(a)(6) of Public Law 106–
 23 554), as amended by section 732 of the Medicare Prescrip-
 24 tion Drug, Improvement, and Modernization Act of 2003
 25 (42 U.S.C. 1395w–4 note), section 104 of division B of

1 the Tax Relief and Health Care Act of 2006 (42 U.S.C.
 2 1395w–4 note), section 104 of the Medicare, Medicaid,
 3 and SCHIP Extension Act of 2007 (Public Law 110–
 4 173), and section 136 of the Medicare Improvements for
 5 Patients and Providers Act of 2008 (Public Law 110–
 6 275), is amended by striking “and 2009” and inserting
 7 “2009, and 2010”.

8 **SEC. 18. MEDICARE REMOTE MONITORING PILOT**
 9 **PROJECTS.**

10 (a) PILOT PROJECTS.—

11 (1) IN GENERAL.—Not later than 9 months
 12 after the date of enactment of this Act, the Sec-
 13 retary of Health and Human Services (in this sec-
 14 tion referred to as the “Secretary”) shall conduct
 15 pilot projects under title XVIII of the Social Secu-
 16 rity Act for the purpose of providing incentives to
 17 home health agencies to utilize home monitoring and
 18 communications technologies that—

19 (A) enhance health outcomes for Medicare
 20 beneficiaries; and

21 (B) reduce expenditures under such title.

22 (2) SITE REQUIREMENTS.—

23 (A) URBAN AND RURAL.—The Secretary
 24 shall conduct the pilot projects under this sec-
 25 tion in both urban and rural areas.

1 (B) SITE IN A SMALL STATE.—The Sec-
 2 retary shall conduct at least 3 of the pilot
 3 projects in a State with a population of less
 4 than 1,000,000.

5 (3) DEFINITION OF HOME HEALTH AGENCY.—
 6 In this section, the term “home health agency” has
 7 the meaning given that term in section 1861(o) of
 8 the Social Security Act (42 U.S.C. 1395x(o)).

9 (b) MEDICARE BENEFICIARIES WITHIN THE SCOPE
 10 OF PROJECTS.—The Secretary shall specify the criteria
 11 for identifying those Medicare beneficiaries who shall be
 12 considered within the scope of the pilot projects under this
 13 section for purposes of the application of subsection (c)
 14 and for the assessment of the effectiveness of the home
 15 health agency in achieving the objectives of this section.
 16 Such criteria may provide for the inclusion in the projects
 17 of Medicare beneficiaries who begin receiving home health
 18 services under title XVIII of the Social Security Act after
 19 the date of the implementation of the projects.

20 (c) INCENTIVES.—

21 (1) PERFORMANCE TARGETS.—The Secretary
 22 shall establish for each home health agency partici-
 23 pating in a pilot project under this section a per-
 24 formance target using one of the following meth-

1 odologies, as determined appropriate by the Sec-
2 retary:

3 (A) ADJUSTED HISTORICAL PERFORMANCE
4 TARGET.—The Secretary shall establish for the
5 agency—

6 (i) a base expenditure amount equal
7 to the average total payments made to the
8 agency under parts A and B of title XVIII
9 of the Social Security Act for Medicare
10 beneficiaries determined to be within the
11 scope of the pilot project in a base period
12 determined by the Secretary; and

13 (ii) an annual per capita expenditure
14 target for such beneficiaries, reflecting the
15 base expenditure amount adjusted for risk
16 and adjusted growth rates.

17 (B) COMPARATIVE PERFORMANCE TAR-
18 GET.—The Secretary shall establish for the
19 agency a comparative performance target equal
20 to the average total payments under such parts
21 A and B during the pilot project for comparable
22 individuals in the same geographic area that
23 are not determined to be within the scope of the
24 pilot project.

1 (2) INCENTIVE.—Subject to paragraph (3), the
2 Secretary shall pay to each participating home care
3 agency an incentive payment for each year under the
4 pilot project equal to a portion of the Medicare sav-
5 ings realized for such year relative to the perform-
6 ance target under paragraph (1).

7 (3) LIMITATION ON EXPENDITURES.—The Sec-
8 retary shall limit incentive payments under this sec-
9 tion in order to ensure that the aggregate expendi-
10 tures under title XVIII of the Social Security Act
11 (including incentive payments under this subsection)
12 do not exceed the amount that the Secretary esti-
13 mates would have been expended if the pilot projects
14 under this section had not been implemented.

15 (d) WAIVER AUTHORITY.—The Secretary may waive
16 such provisions of titles XI and XVIII of the Social Secu-
17 rity Act as the Secretary determines to be appropriate for
18 the conduct of the pilot projects under this section.

19 (e) REPORT TO CONGRESS.—Not later than 5 years
20 after the date that the first pilot project under this section
21 is implemented, the Secretary shall submit to Congress a
22 report on the pilot projects. Such report shall contain a
23 detailed description of issues related to the expansion of
24 the projects under subsection (f) and recommendations for

1 such legislation and administrative actions as the Sec-
 2 retary considers appropriate.

3 (f) EXPANSION.—If the Secretary determines that
 4 any of the pilot projects under this section enhance health
 5 outcomes for Medicare beneficiaries and reduce expendi-
 6 tures under title XVIII of the Social Security Act, the Sec-
 7 retary may initiate comparable projects in additional
 8 areas.

9 (g) INCENTIVE PAYMENTS HAVE NO EFFECT ON
 10 OTHER MEDICARE PAYMENTS TO AGENCIES.—An incen-
 11 tive payment under this section—

12 (1) shall be in addition to the payments that a
 13 home health agency would otherwise receive under
 14 title XVIII of the Social Security Act for the provi-
 15 sion of home health services; and

16 (2) shall have no effect on the amount of such
 17 payments.

18 **SEC. 19. FACILITATING THE PROVISION OF TELEHEALTH**
 19 **SERVICES ACROSS STATE LINES.**

20 (a) IN GENERAL.—For purposes of expediting the
 21 provision of telehealth services, for which payment is made
 22 under the Medicare program, across State lines, the Sec-
 23 retary of Health and Human Services shall, in consulta-
 24 tion with representatives of States, physicians, health care
 25 practitioners, and patient advocates, encourage and facili-

1 tate the adoption of provisions allowing for multistate
2 practitioner practice across State lines.

3 (b) DEFINITIONS.—In subsection (a):

4 (1) TELEHEALTH SERVICE.—The term “tele-
5 health service” has the meaning given that term in
6 subparagraph (F) of section 1834(m)(4) of the So-
7 cial Security Act (42 U.S.C. 1395m(m)(4)).

8 (2) PHYSICIAN, PRACTITIONER.—The terms
9 “physician” and “practitioner” have the meaning
10 given those terms in subparagraphs (D) and (E), re-
11 spectively, of such section.

12 (3) MEDICARE PROGRAM.—The term “Medicare
13 program” means the program of health insurance
14 administered by the Secretary of Health and Human
15 Services under title XVIII of the Social Security Act
16 (42 U.S.C. 1395 et seq.).

17 **SEC. 20. MEDICARE PART A PAYMENT FOR ANESTHESIOLOGIST SERVICES IN CERTAIN RURAL HOSPITALS BASED ON CRNA PASS-THROUGH RULES.**

21 (a) IN GENERAL.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended by adding at the
22 end the following new subsection:
23

17 “(2) No payment shall be made under any other pro-
18 vision of this title for physicians’ services for which pay-
19 ment is made under this subsection.

24 “(A) any reference in such section to a ‘cer-
25 tified registered nurse anesthetist’ or an ‘anesthetist’

1 is deemed a reference to a ‘physician who is an anes-
 2 thesiologist’ or an ‘anesthesiologist’, respectively;
 3 and

4 “(B) any reference to ‘January 1, 1988’ or
 5 ‘1987’ is deemed a reference to such date and year
 6 as the Secretary shall specify.”.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 subsection (a) shall apply to services furnished during cost
 9 reporting periods beginning on or after the date of the
 10 enactment of this Act.

11 **SEC. 21. TEMPORARY FLOOR ON THE PRACTICE EXPENSE**
 12 **GEOGRAPHIC INDEX FOR SERVICES FUR-**
 13 **NISHED IN RURAL AREAS UNDER THE MEDI-**
 14 **CARE PHYSICIAN FEE SCHEDULE.**

15 Section 1848(e)(1) of the Social Security Act (42
 16 U.S.C. 1395w-4(e)(1)) is amended by adding at the end
 17 the following new subparagraph:

18 “(H) FLOOR AT 1.0 ON PRACTICE EXPENSE
 19 GEOGRAPHIC INDEX FOR SERVICES FURNISHED
 20 IN RURAL AREAS.—After calculating the prac-
 21 tice expense geographic index in subparagraph
 22 (A)(i), for purposes of payment for services fur-
 23 nished in a rural area on or after January 1,
 24 2010, and before January 1, 2012, the Sec-
 25 retary shall increase the practice expense geo-

1 graphic index to 1.0 for any locality for which
2 such practice expense geographic index is less
3 than 1.0.”.

4 **SEC. 22. TEMPORARY FLOOR ON MEDICARE HOSPITAL**
5 **AREA WAGE INDEX FOR CERTAIN HOSPITALS.**

6 Section 1886(d)(3)(E) of the Social Security Act (42
7 U.S.C. 1395ww(d)(3)(E) is amended—

8 (1) in clause (i), by striking “clause (ii)” and
9 inserting “clauses (ii) and (iii)”; and

10 (2) by adding at the end the following new
11 clause:

12 “(iii) TEMPORARY FLOOR FOR CERTAIN
13 HOSPITALS.—After establishing the factors
14 under the first sentence of clause (i), for pur-
15 poses of payment for discharges occurring on or
16 after January 1, 2010, and before January 1,
17 2012, the Secretary shall increase the factor to
18 1.0 for hospitals located in a State with less
19 than 10 people per square mile for which such
20 factor is less than 1.0. The Secretary shall
21 apply the fourth sentence of clause (i) as if this
22 clause had not been enacted.”.

1 **SEC. 23. REVISIONS TO STANDARD FOR DESIGNATION OF**
2 **SOLE COMMUNITY HOSPITALS.**

3 Section 1886(d)(5)(D)(iv) of the Social Security Act
4 (42 U.S.C. 1395ww(d)(5)(D)(iv)) is amended by adding
5 at the end the following new sentence: “Under such stand-
6 ard, the time required for an individual to travel to the
7 nearest alternative source of care shall be measured over
8 improved roads maintained by a local, State, or Federal
9 Government entity for use by the general public which is
10 the most expeditious and accessible route as designated
11 by law enforcement for emergency vehicle travel.”.

○